



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,820	10/23/2001	Lars Johnsen	66386-372-7	1479
25269	7590	12/30/2005		
DYKEMA GOSSETT PLLC FRANKLIN SQUARE, THIRD FLOOR WEST 1300 I STREET, NW WASHINGTON, DC 20005			EXAMINER ELOSHWAY, NIKI MARINA	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 12/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/936,820

Applicant(s)

JOHNSEN, LARS

Examiner

Niki M. Eloshway

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2005.
2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 41-55 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 41-49 and 52-55 is/are rejected.
7) ☒ Claim(s) 50 and 51 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 49 and 52-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Geiger (U.S. 4,473,163) in view of Lecinski (GB 2,122,178) and Acton (U.S. 3,006,493). Geiger teaches a lid assembly 1 comprising an outer lid 2 and an inner lid 3. The outer lid consists of a top part between lead lines 17 and 18, a cylindrical collar at 24, threads 5 and 6, and a single inwardly extending protrusion 23b. Geiger does not teach the third layer of the inner lid nor does Geiger teach the inner lid being planar. Lecinski teaches that it is known to provide an inner lid with a third layer having a lower friction coefficient (see lines 47-52 of page 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the lid assembly of Geiger with the inner lid having a third layer, as taught by Lecinski, in order to protect the metal.

Geiger teaches that the inner lid can be substantially planar, as shown in figure 8. Acton teaches that it is known to provide a inner lid which is planar (see element 6). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified lid assembly of Geiger with the inner lid being completely planar, as taught by Acton, in order to simplify the manufacturing process by eliminating more complicated outlines.

The outer lid of Geiger also includes protrusions 23a, c and d. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the lid assembly of Geiger without protrusions 23a, c and d, since it has been held that omission of an element and its function in a

Art Unit: 3727

combination where the remaining elements perform the same functions as before involves only routine skill in the art. *In re Karlson*, 136 USPQ 184.

3. Claims 49 and 52-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Geiger (U.S. 4,473,163) in view of Hayes (U.S. 5,839,592) and Acton (U.S. 3,006,493). Geiger teaches a lid assembly 1 comprising an outer lid 2 and an inner lid 3. The outer lid consists of a top part between lead lines 17 and 18, a cylindrical collar at 24, threads 5 and 6, and a single inwardly extending protrusion 23b. Geiger does not teach the third layer of the inner lid nor does Geiger teach the inner lid being planar. Hayes teaches that it is known to provide an inner lid with a third layer having a lower friction coefficient (see col. 4 lines 9-20). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the lid assembly of Geiger with the inner lid having a third layer, as taught by Hayes, in order to protect the metal.

Geiger teaches that the inner lid can be substantially planar, as shown in figure 8. Acton teaches that it is known to provide a inner lid which is planar (see element 6). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified lid assembly of Geiger with the inner lid being completely planar, as taught by Acton, in order to simplify the manufacturing process by eliminating more complicated outlines.

The outer lid of Geiger also includes protrusions 23a, c and d. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the lid assembly of Geiger without protrusions 23a, c and d, since it has been held that omission of an element and its function in a combination where the remaining elements perform the same functions as before involves only routine skill in the art. *In re Karlson*, 136 USPQ 184.

4. Claims 41-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Geiger in view of Hayes and Acton, as applied to claim 55 above, and further in view of Osip et al. (U.S. 4,991,731). The modified lid assembly of Geiger discloses the claimed invention except for the metal being aluminum.

Art Unit: 3727

Osip teaches that it is known to provide an inner lid with aluminum (see col. 4 lines 53-68). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified lid assembly of Geiger with the metal being aluminum, as taught by Osip, to give the inner lid the rigidity characteristic of aluminum.

Regarding claims 42 and 43, it also would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified lid assembly of Geiger with the first layer being low density polyethylene, as taught by Hayes (col. 4 lines 21-30), to allow the first layer to conform to any irregularities of the container opening.

Regarding claims 44-48, it also would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified lid assembly of Geiger with the third layer being polyethylene, as taught by Hayes (col. 4 lines 9-20), to protect and provide additional strength to the inner lid.

Allowable Subject Matter

5. Claims 50 and 51 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 3727

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

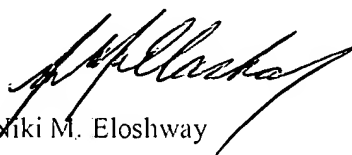
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Niki M. Eloshway whose telephone number is 571-272-4538. The examiner can normally be reached on Thursdays and Fridays 8 a.m. to 4 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


NATHAN J. NEWHOUSE
SUPERVISORY PATENT EXAMINER


Niki M. Eloshway
Niki M. Eloshway
Patent Examiner